EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. B.J. Sadoff on 10/26/2010.

In the Amendments to the Claims of 11/12/2009:

Claim 1 has been amended as shown below:

1. (Currently Amended) A method of treatment of a tumour cell in the brain which comprises administering to a subject in need of treatment an effective amount of a topoisomerase-II poison in combination with a bis-dioxypiperazine, wherein said subject is further treated with brain radiation therapy;

wherein the bis-dioxypiperazine is dexrazoxane;

wherein the topoisomerase-II poison is selected from the group consisting of etoposide, etoposide-phosphate, teniposide, m-amsacrine, daunorubicin and mitoxantrone;

wherein the topoisomerase-II poison is administered at a dose range of from 1 to 100 mg/kg body weight and the bis-dioxypiperazine is administered at a dose range of from about 10 to about 100 mg/kg body weight; and

wherein the radiation is administered at a dose of from about 1 to 100 Gy.

Claims 3 and 5-10 have been cancelled.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

1. Jensen et al teach a method of treating a CNS tumor in humans via administration of a topoisomerase-II poison and a bis-dioxypiperazine compound (page 38, lines 1-9). The bis-dioxypiperazine compound has structural formula (I) (page 11) and the specific compound used is denoted by the symbol ICRF-187 (page 14, lines 11-20). The topoisomerase poison is etoposide (page 40, lines 5-9). The patient can be treated simultaneously or with different intervals between the two active agents (page 15, line 24 through page 16, line 24). According to Jensen, administration (to a human) of an effective amount of CNS tumor killing amount of a topoisomerase-II poison together with administration of a bis-dioxypiperazine compound, protects the non-CNS tissue of the patient (page 3, lines 18-26; page 7, lines 16-22). However, Jensen et al do not teach the use of radiation in combination with the above active agents in their method of treatment.

2. Palepu et al teach the use of piperidinedione (abbreviated as ADR-529 and also known as ICRF-187) is a cardioprotective agent used in antitumor therapy and in addition to being a cardioprotective agent also acts as a sensitizer to ionizing radiation (col. 1, lines 27-36).

3. Applicants refer to the teachings of Jensen and Sehested et al that ICRF-187 (bisdioxypiperazine) has an antagonistic effect on etoposide. ICRF-187 is administered to protect non-tumourous tissue against the toxic action of etoposide. This means that ICRF-187 would be expected to have an antagonistic effect and not an additive effect in the

brain. Applicants have also shown that the combination of ICRF-187, etoposide and radiation extends the survival time of test animals beyond that seen from the use of etoposide with either of ICRF-187 or radiation alone.

The prior art of record therefore does not teach or render obvious the method of treatment as instantly claimed.

Any comments considered necessary by the applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ganapathy Krishnan whose telephone number is 571-272-0654. The examiner can normally be reached on 8.30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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